

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

AFFINITY LABS OF TEXAS, LLC,

*Plaintiff,*

V.

HYUNDAI MOTOR AMERICA, INC.;  
HYUNDAI MOTOR MANUFACTURING  
ALABAMA LLC; VOLKSWAGEN GROUP  
OF AMERICA, INC.; and KIA MOTORS  
AMERICA, INC.,

*Defendants.*



CIVIL ACTION No. 9:08CV164

JUDGE RON CLARK

## JURY VERDICT FORM

**Question No. 1: Direct Infringement—Hyundai**

Do you find by a preponderance of the evidence that Hyundai Motor America, Inc. and Hyundai Motor Manufacturing Alabama LLC directly infringe any of the following claims of the patents-in-suit?

Answer “YES” or “NO” as to each claim for each representative product.

2010 Hyundai Sonata

Claim 28 of the ‘833 patent yes

Claim 35 of the ‘833 patent yes

Claim 3 of the ‘228 patent yes

Claim 22 of the ‘228 patent yes

Claim 28 of the ‘228 patent yes

Please go on to Question No. 2.

**Question No. 2: Indirect Infringement (Induced)—Hyundai**

Do you find by a preponderance of the evidence that Hyundai Motor America, Inc. and Hyundai Motor Manufacturing Alabama LLC induce infringement of any of the following claims of the patents-in-suit?

Answer "YES" or "NO" as to each claim for each representative product.

2010 Hyundai Sonata

Claim 28 of the '833 patent yes

Claim 35 of the '833 patent yes

Claim 3 of the '228 patent yes

Claim 22 of the '228 patent yes

Claim 28 of the '228 patent yes

Please go on to Question No. 3.

**Question No. 3: Indirect Infringement (Contributory)—Hyundai**

Do you find by a preponderance of the evidence that Hyundai Motor America, Inc. and Hyundai Motor Manufacturing Alabama LLC contributorily infringe any of the following claims of the patents-in-suit?

Answer "YES" or "NO" as to each claim for each representative product.

2010 Hyundai Sonata

Claim 28 of the '833 patent

YES

Claim 35 of the '833 patent

YES

Claim 3 of the '228 patent

YES

Claim 22 of the '228 patent

YES

Claim 28 of the '228 patent

YES

Please go on to Question No. 4.

**Question No. 4: Direct Infringement—Kia**

Do you find by a preponderance of the evidence that Kia Motors America, Inc. directly infringes any of the following claims of the patents-in-suit?

Answer "YES" or "NO" as to each claim for each representative product.

2010 Kia Optima

Claim 3 of the '228 patent

yes

Claim 22 of the '228 patent

yes

Claim 28 of the '228 patent

yes

Please go on to Question No. 5.

**Question No. 5: Indirect Infringement (Induced)—Kia**

Do you find by a preponderance of the evidence that Kia Motors America, Inc. induces infringement of any of the following claims of the patents-in-suit?

Answer "YES" or "NO" as to each claim for each representative product.

2010 Kia Optima

Claim 3 of the '228 patent

Yes

Claim 22 of the '228 patent

Yes

Claim 28 of the '228 patent

Yes

Please go on to Question No. 6.

**Question No. 6: Indirect Infringement (Contributory)—Kia**

Do you find by a preponderance of the evidence that Kia Motors America, Inc. contributorily infringes any of the following claims of the patents-in-suit?

Answer "YES" or "NO" as to each claim for each representative product.

2010 Kia Optima

Claim 3 of the '228 patent

yes

Claim 22 of the '228 patent

yes

Claim 28 of the '228 patent

yes

Please go on to Question No. 7.

**Question No. 7: Direct Infringement—Volkswagen**

Do you find by a preponderance of the evidence that Volkswagen Group of America, Inc. directly infringes any of the following claims of the patents-in-suit?

Answer “YES” or “NO” as to each claim for each representative product.

	<u>2010 VW Passat/Passat CC</u>	<u>2010 VW Golf TDI</u>	<u>2010 Audi A4/Q5</u>	<u>2010 Bentley Continental Flying Spur/Flying Spur Speed</u>
Claim 28 of the ‘833 patent	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>
Claim 35 of the ‘833 patent	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>
Claim 3 of the ‘228 patent	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>
Claim 22 of the ‘228 patent	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>
Claim 28 of the ‘228 patent	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>

Please go on to Question No. 8.



**Question No. 8: Indirect Infringement (Induced)—Volkswagen**

Do you find by a preponderance of the evidence that Volkswagen Group of America, Inc. induces infringement of any of the following claims of the patents-in-suit?

Answer "YES" or "NO" as to each claim for each representative product.

	<u>2010 VW Passat/Passat CC</u>	<u>2010 VW Golf TDI</u>	<u>2010 Audi A4/Q5</u>	<u>2010 Bentley Continental Flying Spur/Flying Spur Speed</u>
Claim 28 of the '833 patent	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>
Claim 35 of the '833 patent	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>
Claim 3 of the '228 patent	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>
Claim 22 of the '228 patent	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>
Claim 28 of the '228 patent	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>

Please go on to Question No. 9.

**Question No. 9: Indirect Infringement (Contributory)—Volkswagen**

Do you find by a preponderance of the evidence that Volkswagen Group of America, Inc. contributorily infringes any of the following claims of the patents-in-suit?

Answer "YES" or "NO" as to each claim for each representative product.

	<u>2010 VW Passat/Passat CC</u>	<u>2010 VW Golf TDI</u>	<u>2010 Audi A4/Q5</u>	<u>2010 Bentley Continental Flying Spur/Flying Spur Speed</u>
Claim 28 of the '833 patent	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>
Claim 35 of the '833 patent	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>
Claim 3 of the '228 patent	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>
Claim 22 of the '228 patent	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>
Claim 28 of the '228 patent	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>

Please go on to Question No. 10.

**Question No. 10: Invalidity—Anticipation**

Do you find by clear and convincing evidence that any of the following claims of the patents-in-suit is invalid because it is anticipated by the references listed below?

Answer “YES” or “NO” as to each claim for each reference.

Abecassis Patent

Claim 28 of the ‘833 patent

No

Claim 35 of the ‘833 patent

No

Sony Player

Claim 22 of the ‘228 patent

No

Please go on to Question No. 11.

**Question No. 11: Invalidity—Obviousness**

Do you find by clear and convincing evidence that any of the following claims of the patents-in-suit is invalid because it would have been obvious to a person of ordinary skill in the art in light of the combinations of references listed below?

Answer “YES” or “NO” as to each claim for each combination of references.

	<u>Network Vehicle</u> <u>in combination</u> <u>with</u> <u>Empeg Player</u>	<u>Berry Patent</u> <u>in combination</u> <u>with</u> <u>ICES System</u>	
Claim 28 of the ‘833 patent	<u>No</u>	<u>No</u>	
Claim 35 of the ‘833 patent	<u>No</u>	<u>No</u>	
	<u>Network Vehicle</u> <u>in combination</u> <u>with</u> <u>Empeg Player</u>	<u>Berry Patent</u> <u>in combination</u> <u>with</u> <u>ICES System</u>	<u>Sony Player</u> <u>in combination</u> <u>with</u> <u>Abecassis Patent</u>
Claim 3 of the ‘228 patent	<u>No</u>	<u>No</u>	<u>No</u>
Claim 22 of the ‘228 patent	<u>No</u>	<u>No</u>	N/A
Claim 28 of the ‘228 patent	<u>No</u>	<u>No</u>	<u>No</u>

Please go on to Question No. 12.

**Question No. 12: Invalidity—Written Description**

Do you find by clear and convincing evidence that any of the following claims of the patents-in-suit is invalid because the written description requirement is not satisfied as to that claim?

Answer "YES" or "NO" as to each claim.

Claim 28 of the '833 patent

No

Claim 35 of the '833 patent

No

Claim 3 of the '228 patent

No

Claim 22 of the '228 patent

No

Claim 28 of the '228 patent

No

Please go on to Question No. 13.

**Question No. 13: Damages—Hyundai**

If you answered “YES” to any claim listed in Question Nos. 1, 2, or 3,  
and did not find that same claim invalid in Question Nos. 10, 11, or 12,  
then answer the following question.

Otherwise, please go on to Question No. 14.

What sum of money, if any, do you find would fairly and adequately compensate Affinity Labs for  
Hyundai’s conduct you found to infringe, from the commencement of infringement through today?

Answer in dollars and cents.

Answer in the form of a reasonable royalty.

Answer separately as to each group of vehicles.

Sales of Hyundai Vehicles for  
Which There is a Corresponding  
Sale of a Hyundai iPod Cable

\$ 2,430,065

Sales of Hyundai Vehicles for  
Which There is no Corresponding  
Sale of a Hyundai iPod Cable

\$ 0

Please go on to Question No. 14.

**Question No. 14: Damages—Kia**

If you answered “YES” to any claim listed in Question Nos. 4, 5, or 6,  
and did not find that same claim invalid in Question Nos. 10, 11, or 12,  
then answer the following question.

Otherwise, please go on to Question No. 15.

What sum of money, if any, do you find would fairly and adequately compensate Affinity Labs for  
Kia’s conduct you found to infringe, from the commencement of infringement through today?

Answer in dollars and cents.

Answer in the form of a reasonable royalty.

Answer separately as to each group of vehicles.

Sales of Kia Vehicles for  
Which There is a Corresponding  
Sale of a Kia iPod Cable

\$ 406,472

Sales of Kia Vehicles for  
Which There is no Corresponding  
Sale of a Kia iPod Cable

\$ 0

Please go on to Question No. 15.

**Question No. 15: Damages—Volkswagen**

If you answered "YES" to any claim listed in Question Nos. 7, 8, or 9, and did not find that same claim invalid in Question Nos. 10, 11, or 12, then answer the following question.

Otherwise, please initial and date the verdict form.

What sum of money, if any, do you find would fairly and adequately compensate Affinity Labs for Volkswagen's conduct you found to infringe, from the commencement of infringement through today?

Answer in either format (1) OR format (2), but not both.  
Answer in dollars and cents.

- (1) In the form of a reasonable running royalty:

\$ \_\_\_\_\_

OR

- (2) In the form of a reasonable lump sum royalty to cover all past and future sales of infringing vehicles:

\$ 10,149,993

Please initial and date the verdict form.

DATE 10/28/2010

INITIALS OF FOREPERSON

TAN